(ii) Technology and source code described in paragraph (a)(2) of this section for computers with a CTP less than or equal to 190,000 MTOPS are eligible for deemed exports under License Exception CTP to foreign nationals of Tier 1 destinations, other than the destinations that are listed in paragraph (c)(3)(i) of this section, subject to the restrictions in paragraph (b) of this section.

(d) *Computer Tier 3 destinations.* (1) *Eligible destinations.* Eligible destinations under paragraph (d) of this section are: Afghanistan, Albania, Algeria, Andorra, Angola, Armenia, Azerbaijan, Bahrain, Belarus, Bosnia & Herzegovina, Bulgaria, Cambodia, China (People's Republic of), Comoros, Croatia, Djibouti, Egypt, Georgia, India, Iraq, Israel, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Laos, Lebanon, Macau, Macedonia (The Former Yugoslav Republic of), Mauritania, Moldova, Mongolia, Morocco, Oman, Pakistan, Qatar, Russia, Serbia and Montenegro, Saudi Arabia, Tajikistan, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uzbekistan, Vanuatu, Vietnam, and Yemen.

(2) *Eligible commodities.* None.

(3) *Eligible technology and source code.* Technology and source code described in paragraph (a)(2) of this section for computers with a CTP less than or equal to 75,000 MTOPS are eligible for deemed exports under License Exception CTP to foreign nationals of Tier 3 destinations as described in paragraph (d)(1) of this section, subject to the restrictions in paragraph (b) and the provisions of paragraph (d)(4) of this section.

(4) *Foreign National Review (FNR) requirement for deemed exports.* (i) *Submission requirement.* Prior to disclosing eligible technology or source code to a foreign national of a Computer Tier 3 country that is not also a country listed in Country Group B in Supplement No. 1 to part 740 of the EAR under this License Exception, you must submit a Foreign National Review (FNR) request to BIS, as required under §748.8(s) of the EAR. Your FNR request must include information about the foreign national required under §748.8(t) of the EAR and set forth in

Supplement No. 2 of part 748 of the EAR.

(ii) *Confirmation of eligibility.* You may not use License Exception CTP, until you have obtained confirmation of eligibility by calling the System for Tracking Export License Applications (STELA), see §750.5 for how to use STELA, or electronically from the Simplified Network Application Procedure (SNAP), see *http://www.bis.doc.gov/ SNAP/index.htm* for more information about SNAP.

(iii) *Action by BIS.* Within nine business days of the registration of the FNR request, BIS will electronically refer the FNR request for interagency review, or if necessary return the FNR request without action (*e.g.*, if the information provided is incomplete). Processing time starts at the point at which the notification is registered into BIS's electronic system.

(iv) *Review by other departments or agencies.* The Departments of Defense, State, Energy, and other agencies, as appropriate, may review the FNR request. Within 30 calendar days of receipt of the BIS referral, the reviewing agency will provide BIS with a recommendation either to approve or deny the FNR request. A reviewing agency that fails to provide a recommendation within 30 days shall be deemed to have no objection to the final decision of BIS.

(v) *Action on the FNR Request.* After the interagency review period, BIS will promptly notify the applicant regarding the FNR request, *i.e.*, whether the FNR request is approved, denied, or more time is needed to consider the request.

(e) *Reporting requirements.* See §743.1 of the EAR for reporting requirements of certain items under License Exception CTP.

[69 FR 64487, Nov. 5, 2004]

§ 740.8 Key management infrastructure (KMI).

(a) *Scope.* License Exception KMI authorizes the export and reexport of certain encryption software and equipment.

(b) *Eligible commodities and software.* (1) Recovery encryption commodities and software of any key length controlled under ECCNs 5A002 and 5D002

that have been classified after a technical review through a classification request. Key escrow and key recovery commodities and software must meet the criteria identified in Supplement No. 4 to part 742 of the EAR.

(2) For such classification requests, indicate ''License Exception KMI'' in block 9 on Form BIS-748P. Submit the original request to BIS in accordance with §748.3 of the EAR and send a copy of the request to:

Attn: KMI Encryption Request Coordinator, 9800 Savage Road, Suite 6131, Fort Meade, MD 20755–6000.

(c) *Eligible destinations.* License Exception KMI is available for all destinations, except destinations in Country Group E:1 (see Supplement No. 1 to this part).

(d) *Reporting requirements.* (1) You must provide semiannual reports to BIS identifying:

(i) Ultimate consignee; specific end-user name and address, if available; and country of ultimate destination; and

(ii) Quantities of each encryption item shipped.

(2) You must submit reports no later than February 1 and no later than August 1 of any given year.

[61 FR 68579, Dec. 30, 1996, as amended at 63 FR 50520, Sept. 22, 1998; 63 FR 72159, Dec. 31, 1998; 65 FR 2496, Jan. 14, 2000; 66 FR 42109, Aug. 10, 2001]

§ 740.9 Temporary imports, exports, and reexports (TMP).

This License Exception authorizes various temporary exports and reexports; exports and reexports of items temporarily in the United States; and exports and reexports of beta test software.

(a) *Temporary exports and reexports—* (1) *Scope.* You may export and reexport commodities and software for temporary use abroad (including use in international waters) subject to the conditions and exclusions described in paragraph (a)(4) of this section. Commodities and software shipped as temporary exports or reexports under the provisions of this paragraph (a) must be returned to the country from which they were exported as soon as practicable but, except in circumstances described in this section, no later than one year from the date of export. This requirement does not apply if the commodities and software are consumed or destroyed in the normal course of authorized temporary use abroad or an extension or other disposition is permitted by the EAR or in writing by BIS.

(2) *Eligible commodities and software.* The following commodities and software are eligible to be shipped under this paragraph (a):

(i) *Tools of trade.* Usual and reasonable kinds and quantities of tools of trade (commodities and software) for use by the exporter or employees of the exporter in a lawful enterprise or undertaking of the exporter. Eligible tools of trade may include, but are not limited to, such equipment and software as is necessary to commission or service goods, provided that the equipment or software is appropriate for this purpose and that all goods to be commissioned or serviced are of foreign origin, or if subject to the EAR, have been legally exported or reexported. The tools of trade must remain under the effective control of the exporter or the exporter's employee (*see* part 772 of the EAR for a definition of ''effective control''). All tools of trade may accompany the individual departing from the United States or may be shipped unaccompanied within one month before the individual's departure from the United States, or at any time after departure. No tools of the trade may be taken to Country Group E:2 (*see* Supplement No.1 to part 740) or Sudan. For exports under this License Exception of laptops, handheld devices and other computers and equipment loaded with encryption commodities or software, refer to item interpretation 13 in §770.2 of the EAR.

(ii) *Kits consisting of replacement parts.* Kits consisting of replacement parts may be exported or reexported to all destinations, except Country Group E:2 (see Supplement No. 1 to part 740), provided that:

(A) The parts would qualify for shipment under paragraph (a)(2)(ii)(C) of this section if exported as one-for-one replacements;